Miller Files Lawsuit against Standard & Poor's

Lawsuit part of bipartisan multistate & federal civil enforcement actions, alleges S&P's ratings services "compromised"

(DES MOINES, Iowa) In a consumer fraud lawsuit filed Tuesday against Standard & Poor's Ratings Services, Attorney General Tom Miller alleged that the financial ratings company misrepresented its investment analysis services as objective, independent and not influenced by its own or its clients' financial interests.

The state's lawsuit, filed in Polk County District Court, is part of a coordinated civil law enforcement effort by a bipartisan group of state attorneys general, the District of Columbia Attorney General, and the U.S. Department of Justice. The Justice Department filed a federal lawsuit in U.S. District Court for the Central District of California following an extensive investigation.

"We allege that S&P misled investors and market participants, which includes Iowa consumers," said Miller. "The company falsely promised that its investment analyses were independent and objective. People relied on these representations to make important financial decisions."

The alleged fraud began as early as 2001, became particularly acute between 2004 and 2007, and continued as recently as 2011, according to Miller's petition.

Despite S&P's repeated statements emphasizing its independence and objectivity, the lawsuit alleges that S&P allowed its desire to earn lucrative fees from its investment bank clients to influence its ratings analyses. "S&P offered a product and/or service that was materially different from what it purported to provide to the marketplace," the petition alleges.

Structured finance securities backed by subprime mortgages were at the center of the financial crisis. These financial products, including residential mortgage-backed securities (RMBS) and collateral debt obligations (CDOs), derive their value from the monthly payments consumers make on their mortgages.

The enforcement actions seek court orders to stop S&P from making misrepresentations to the public; changes in the way the company does business; civil penalties and disgorgement of profits.

Connecticut first sued S&P on these allegations in March, 2010 and leads this multistate coalition. Illinois and Mississippi have also filed lawsuits. In addition to Iowa's suit, the following state attorneys general today also filed similar cases: Arizona, Arkansas, California, Colorado, Delaware, Idaho, North Carolina, Maine, Missouri, Pennsylvania, Tennessee, Washington, and the District of Columbia Attorney General.

Miller's lawsuit alleges that investors and other market participants relied on S&P to fulfill its promise of independence and objectivity. Instead, S&P adjusted its analytical models for rating residential mortgage-backed securities and collateral debt obligations to allow it to assign as many AAA ratings as possible, allowing it to earn additional revenue from its investment banking clients, according to the petition.

"We allege these representations by S&P were false, and the company knew it," said Miller.

Further, the complaints allege that S&P's monitoring, or surveillance, of previously rated RMBS and CDOs, was also affected by revenue considerations. In particular, the petition alleges, S&P delayed taking rating actions on impaired RMBS and continued rating new CDOs even after it determined that the security's underlying collateral was impaired.

The congressionally appointed bipartisan Financial Crisis Inquiry Commission concluded in its final report that the financial crisis "could not have happened" without ratings agencies such as S&P.

S&P and its chief competitor, Moody's Investors Service, Inc. (Moody's), dominate the market for rating structured finance securities and are responsible for rating virtually all structured finance securities issued into the global capital markets.